
Federal Communications Commission

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Apollo Tower LLC)	File No.: EB-FIELDSCR-12-00005343
Owner of Antenna Structure Number)	
1033563)	NOV No.: V201332560007
)	
Overbrook, Kansas)	
)	

NOTICE OF VIOLATION

Released: December 3, 2012

By the District Director, Kansas City Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to Apollo Tower LLC, owner of antenna structure number 1033563 near Overbrook, Kansas. Pursuant to Section 1.89(a) of the Rules, issuance of this NOV does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²
2. An agent of the Commission's Kansas City Office investigated antenna structure number 1033563 located at 38-50-15N/095-29-53W and noted the following violation(s):
 - a. *47 C.F.R. § 17.48 The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part: (a) Shall report immediately by telephone or telegraph to the nearest Flight Service Station or office of the Federal Aviation Administration any observed or otherwise known extinguishment or improper functioning of any top steady burning light or any flashing obstruction light, regardless of its position on the antenna structure, not corrected within 30 minutes. Such reports shall set forth the condition of the light or lights, the circumstances which caused the failure, the probable date for restoration of service, the FCC Antenna Structure Registration Number, the height of the structure (AGL and AMSL if known) and the name, title, address, and telephone number of the person making the report. Further notification by telephone or telegraph shall be given immediately upon resumption of normal operation of the light or lights.* On November 13, 2012,

¹47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

an officer with the Douglas County Kansas Sheriff's Department observed that the top beacon on antenna structure number 1033653 was not lit. An agent from the Kansas City Office checked with the Federal Aviation Administration (FAA) and found that no one had notified the FAA of the outage and that no Notice to Airman (NOTAM) had been issued for this structure.

- b. *47 C.F.R. § 17.50: "Antenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility."* At the time of inspection on November 9, 2012, the paint on this structure was faded and bare metal could be seen in several places.
 - c. *47 C.F.R. § 17.51: "All red obstruction lighting shall be exhibited from sunset to sunrise unless otherwise specified."* On November 13, 2012, an officer with the Douglas County Kansas Sheriff's Department observed that the top beacon on antenna structure number 1033653 was not lit.
3. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, Apollo Tower LLC must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response must (i) fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴
4. In accordance with Section 1.16 of the Rules, we direct Apollo Tower LLC to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Apollo Tower LLC with personal knowledge of the representations provided in Apollo Tower LLC's response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶ All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

³47 U.S.C. § 403.

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'. " 47 C.F.R. § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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Kansas City Office
520 N.E. Colbern Rd.
2nd Floor
Lees Summit, MO 64086-4711

5. This Notice shall be sent to Apollo Tower LLC at its address of record.
6. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance. Any false statement made knowingly and willfully in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁸

FEDERAL COMMUNICATIONS COMMISSION

Ronald D. Ramage
District Director
Kansas City Office
South Central Region
Enforcement Bureau

⁷P.L. 93-579, 5 U.S.C. § 552a(e)(3).

⁸18 U.S.C. § 1001 *et seq.*